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# WOMEN AND THE EMPLOYMENT INSURANCE PROGRAM

By Monica Townson and Kevin Hayes

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# From Unemployment Insurance to Employment Insurance: How the program was transformed

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CANADA HAS HAD a national program to provide financial support to the unemployed for almost 70 years. When the government introduced the first *Unemployment Insurance Act* in 1940 it said the fundamental purpose of UI was to promote the economic and social security of Canadians by supporting workers between jobs. But the original program covered less than half the work force. Workers in agriculture, horticulture, forestry and fishing were specifically excluded. Most public sector workers, such as nurses and teachers were also left out. As well, higher benefits were paid to claimants with dependants.

The program has gone through major changes over the years — most notably in 1971 when benefits were extended to those whose earnings were interrupted because of sickness or pregnancy. There followed a raft of Task Forces and Commissions which produced recommendations for further changes — generally in the direction of cutting back benefits. But the federal government’s Social Security Review in 1994 came up with proposals for a radical overhaul of the program. That led to the implementation of the *Employment Insurance Act* of December 1995 and “Unemployment Insurance” became “Employment Insurance.” According to the government of the time, the UI program was attracting workers to get into the paid work force so they could eventually claim benefits. In effect, the government said, “UI increases the at-

## How we measure coverage

When we talk about “coverage” of the EI program, we are referring to the percentage of unemployed workers actually receive EI benefits when they lose their jobs. The measurement is sometimes called the “Beneficiaries/Unemployed or B/U Ratio” and it is an attempt to assess the total number of individuals out of work who are excluded from the EI program for various reasons. For example, it includes self-employed people, although they are not eligible for EI benefits. It also includes the unemployed who have exhausted their EI claim weeks or months before finding another job. In a sense then, the B/U ratio indicates the impact of the EI qualifying rules.

By using a B/U ratio, we do not intend to suggest that all those who are unemployed should be entitled to EI benefits. It is simply one way of measuring coverage, but it does not tell us the reasons why the unemployed are ineligible. We should note that we use the B/U ratio only in relation to regular EI benefits. It does not include those who receive sickness, maternity, parental and adoption benefits, or compassionate care benefits.

Some people criticize the B/U ratio as a measure of coverage because they say the measurement includes many unemployed who have not paid premiums such as those who have never worked, for example, young people or new immigrants looking for their first job; those who have not worked in the past year; or who had been in self-employment, which in 2005 made up 15.5% of all employment in Canada. Our analysis indicates it is precisely these three situations that account for much of the gender gap in eligibility.

tractiveness of short-duration work or jobs with low wage rates because it provides additional weeks of income.”

Program changes were supposed to shift the emphasis from providing income support when workers had lost their jobs to making sure they got back to work as quickly as possible. The results were dramatic. While 74% of unemployed workers were entitled to receive UI benefits in 1990, by 2004, only 36% of the unemployed got benefits under the new EI program. For women workers, coverage dropped from 69% in 1990 to 32% in 2004.

## THE OLD UNEMPLOYMENT INSURANCE PROGRAM

Qualifying for regular unemployment benefits under the old Unemployment Insurance program was based on the number of weeks worked in the 52 weeks immediately prior to the claim. Weeks worked in earlier periods did not count. For regular unemployment benefits, the number of required weeks ranged between 12 and 20 weeks of insurable employment depending on the regional unemployment rate. New entrants to the labour market required 20 weeks of work regardless of the unemployment rate where they lived.

Workers who quit their jobs without just cause or those fired for misconduct were not eligible for UI benefits. There were about 40 “just cause” reasons for quitting a job set out in the legislation and guidelines. These included, for example, the obliga-

tion to accompany a spouse who is moving to a new place of work, discrimination, the obligation to care for a child or a member of the immediate family, and sexual or other harassment.

The length of a UI claim or the entitlement duration for regular unemployment benefits varied from 14 to 50 weeks and depended on both the number of weeks of previous employment and the unemployment rate of the region. Benefits were also paid when earnings were interrupted as a result sickness, maternity and parental leaves. These benefits, originally introduced in 1971, were known as “special benefits,” and were subject to an overall ceiling of 30 weeks. For both regular and special benefits there was a two-week waiting period before benefits could be received.

The program set a level of maximum insurable earnings at \$780 a week in 1994. Benefits for most claimants were set at 55% of the average weekly insured earnings, based on their 20 most recent weeks of employment up to a maximum of \$429 a week in 1994 and indexed annually. It was estimated that about 80% of workers in 1994 had earnings at or below the current maximum insurable earnings level. For example, in 1992, while the maximum weekly benefit was \$426, the average payment was \$252. For claimants with low insured earnings and with dependants, the benefit rate was 60%.

#### UNEMPLOYMENT INSURANCE BECOMES EMPLOYMENT INSURANCE

Major changes were introduced in 1997 when the program was re-named *Employment Insurance*. Eligibility for benefits would now depend on total earnings and total hours worked in the 12 months prior to the claim, starting from the first dollar and the first hour.

But the required number of hours was doubled and in some cases tripled from the previous system.

To convert to an hours-based system, the government assumed the number of weeks required under the old program would translate into hours for the new program at a rate of 35 hours a week, instead of the minimum of 15 hours a week under the old program. For example, under the previous system, 20 weeks of work assuming at least 15 hours a week meant 300 hours were needed to qualify for benefits. Under the new system, the 300 hours became 700 hours based on 20 weeks at 35 hours a week. The government said that 35 hours a week represented the average hours worked by Canadian workers. But employed men in 1996 were working an average 39 hours a week, while employed women averaged 30 hours. The 35-hour average, of course, was lower than men’s average weekly hours, but considerably higher than what women workers were averaging, so it became easier for unemployed men to qualify for benefits and much harder for unemployed women to qualify.



## The impact of the new program on women

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ALMOST FROM THE BEGINNING, women have been treated differently under the UI/EI program. In the early days, in some cases, punitive rules were imposed on women claimants, apparently in a reflection of societal views about the appropriate role of women. Program requirements sometimes reflected implied stereotypes of women in paid employment as secondary workers working for pin money and not serious about paid employment. Even under the current program, the number of hours required to qualify for maternity benefits is higher than the required hours to qualify for regular EI benefits.

Some of the changes in the EI program over the years seemed to reflect a view that women might enter the paid work force just to qualify for EI benefits before leaving again. More recently, changes in the program that appear, on the face of it, to be neutral in their impact have actually had an adverse impact on women workers, because of their different patterns of paid and unpaid work and labour force participation. The eligibility rules seem to be designed for workers with permanent full-time jobs, but a significant percentage of women's jobs do not fit this definition.

About 40% of women in paid employment (compared with less than 30% of employed men) work in non-standard work arrangements. They are employed part-time or in temporary, casual and contract work, they are multiple job holders, or they are self-employed without employees. Most self-employed workers are not covered by the EI program even if they are dependent contractors subject to the same conditions in

a conventional employer-employee relationship. Other contingent workers may find it difficult to qualify, because they cannot meet the stringent conditions.

As well, because they are still largely responsible for family caregiving, employed women generally work shorter hours than employed men even when both are employed full-time. In a system where eligibility for benefits is based on hours worked, these differences may mean women are less likely than men to be eligible for benefits under the program.

Women who temporarily leave paid employment to care for family members may be considered as new entrants or re-entrants when they return to paid employment. But new entrants and re-entrants to the workforce were required to have 910 hours of work in the previous 52 weeks to qualify, instead of the 300 hours that had been required under the old system.

Theoretically, the switch to an hours-based system should have been beneficial to contingent workers, and particularly those employed part-time, since even people with less than 15 hours of work a week could now potentially qualify, as long as they could meet the requirement of total hours of work in the 12 months prior to a claim. But the number of hours required to qualify for benefits was set at a level where few part-time workers could qualify. Depending on the unemployment rate in the region where they lived, workers with regular employment were required to have a minimum of 420 to 700 hours of work in the previous 12-month period to qualify for benefits. In most of the country, this meant a minimum of 560 instead of 240 hours under the previous program.

#### THE WIDENING GENDER GAP IN COVERAGE

The dramatic drop in EI coverage has been accompanied by a widening gap in coverage between women and men. Many of the unemployed now excluded from benefits were eligible at various times under the former program. In effect, the EI program design does not recognize that key features of the labour market have changed dramatically in the last two decades. In particular, it does not recognize significant gender differences in the nature of paid employment.

In fact, our analysis shows the main reasons for the gender gap in coverage are neither the switch from weeks to hours of work, nor even the increases in hours under the new program. The main reason for the gap is the fact that while women's patterns of paid employment and participation in the paid workforce are different from those of men, these differences were not recognized when the EI changes were made. The higher qualifying hours were grafted onto the same eligibility platform that has been around since 1971 and earlier, without regard to the significant changes in women's patterns of participation in paid employment since that time. In particular, the 12-month qualifying period and 12-month pre-qualifying period did not change to fit the distinct work patterns of women



As well, the nature of unemployment and the reasons for being unemployed are very different for men and women. Men tend to become unemployed because they lose their jobs; unemployed women tend to be job leavers — they are unemployed because they left their jobs for various reasons. Unemployment legislation prescribes what are acceptable reasons for leaving a job and still being considered unemployed. But the quit rules were not always highly restrictive as they are now. Before 1990, workers who quit their jobs were generally eligible for EI.

In one of its Monitoring and Assessment Reports, the government itself admitted that women's different work patterns could mean they would be more likely than men to be affected by the much stricter EI rules. They noted that women are less likely than men to work in seasonal industries where EI use is more frequent. They are also more likely than men to work in part-time and temporary jobs where access to EI is more limited. Finally, women are more likely than men to move in and out of the labour market.

The gender gap in coverage has serious implications for women workers. While they must contribute to the program from the first dollar of their earnings, their likelihood of being able to receive benefits if they become unemployed is much less than that of men. In effect, the EI contributions of women workers are being used to subsidize the benefits of the male workers who find it easier to qualify under the new rules.

#### THE IMPACT OF THE NEW PROGRAM ON WOMEN

It is clear the 1997 changes had a major impact on women workers. Because they leave the labour force for child care and other family responsibilities, a disproportionate number of women must qualify as new entrants or re-entrants. The number of hours required by these claimants to qualify for benefits was tripled under the new rules. Women were also adversely affected by the variable entrance requirement where the minimum number of weeks and hours needed to qualify for benefits varies with the local unemployment rate.

In hearing the 2000 case of Kelly Lesiuk, a Manitoba nurse who had been denied benefits, the EI Umpire expressed the view that, "the eligibility requirements demean the essential human dignity of women who predominate in the part-time labour force because they must work for longer periods than full-time workers in order to demonstrate their labour force attachment...Since women continue to spend approximately twice as much time doing unpaid work as men, women are predominantly affected. Thus, the underlying message is that, to enjoy equal benefits of law, women must become more like men by increasing their hours of paid work, notwithstanding their unpaid responsibilities."

## REASONS WHY THE UNEMPLOYED ARE NOT RECEIVING BENEFITS

About 11% of unemployed workers without EI benefits in 2004 did not have enough hours to qualify for benefits. Another 15% had left their last job to go to school or for other reasons not allowed by the EI rules. Six per cent had no insurable employment. About 2% of the unemployed had enough hours to qualify for benefits but did not receive them. Between 3% and 5% of the unemployed who are eligible for EI did not make a claim for benefits. Most of these did not claim because they expected to be back at work soon. Others reported that they did not want or need EI benefits.

By far the largest percentage of those without benefits — 26% in 2004 — were ineligible because they had not worked in the previous 12 months. But most workers excluded for this reason did, in fact, have a strong labour force attachment. About one-third of them had entered the labour force after staying at home. And one-sixth were students before they started looking for work. All told, it was estimated that roughly half of the workers who were excluded because they had not worked in the past 12 months had, in fact, worked some time in the past. The other half had been unemployed continuously since their last job more than 12 months before.

It should be noted that these statistics do not include self-employed workers who are excluded from EI. Unfortunately, there is no gender breakdown of the numbers. However, some surveys of EI coverage have found that two-thirds of adult men — but only half of adult women — were potentially eligible for benefits. The difference was because a higher proportion of unemployed women than men had no recent employment on which to base a claim.

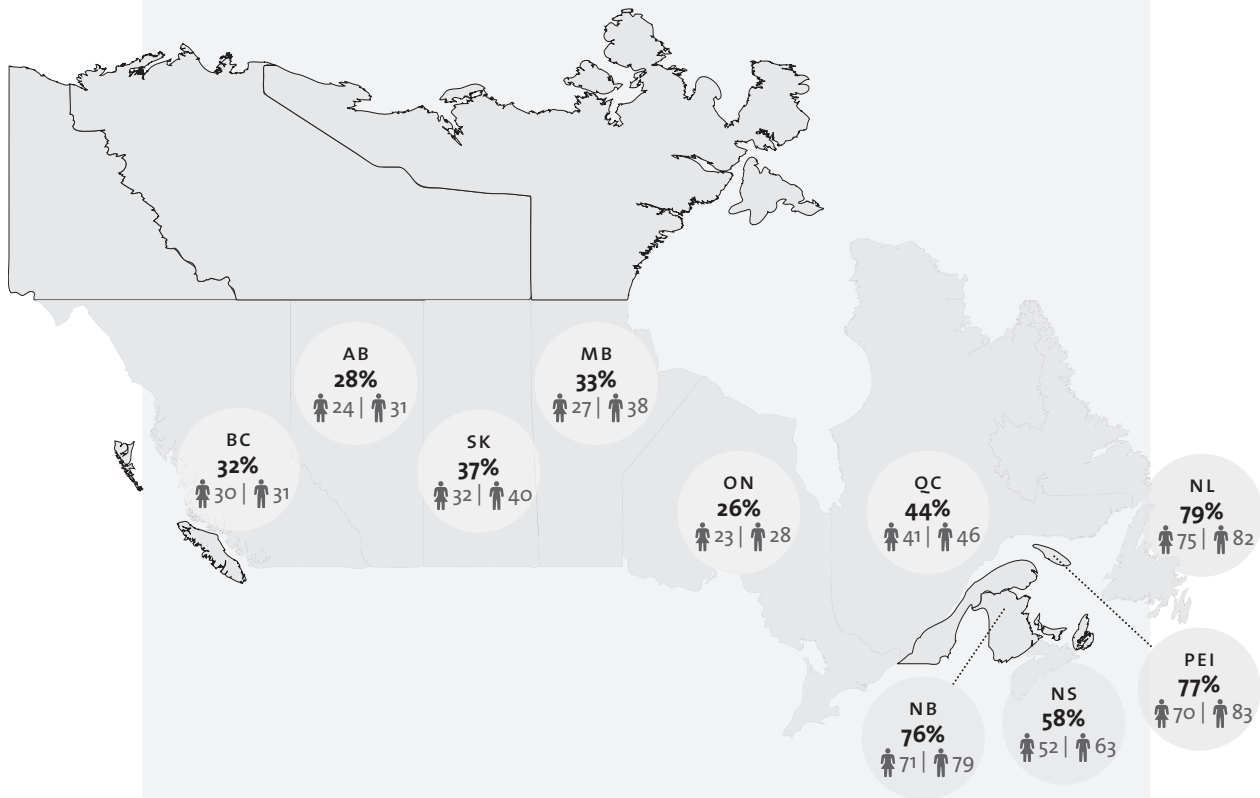
## COVERAGE RATES VARY BY PROVINCE AND CITY



The national EI coverage rate hides as much as it reveals. EI legislation specifies 58 regions and the changing monthly unemployment rate in each region determines the hours needed to qualify for regular unemployment benefits as well as the maximum length of the benefit period. Fewer hours are needed to qualify in the highest unemployment regions, and the length of the benefit period is longer. In low unemployment areas, the qualifying hours are much higher and the length of the benefit period much shorter.

Provinces with low unemployment rates have much lower coverage levels. For instance, in Ontario in 2004, only 26% of unemployed workers were eligible for benefits; in Alberta, coverage was only 28%. In high unemployment provinces, coverage ranged from 76% in New Brunswick to 79% in Newfoundland and Labrador.

Coverage rates also vary widely by city. For instance, out of six selected metropolitan areas in 2004, the percentage of unemployed workers receiving benefits ranged from a low of 21% in Toronto to a high of 37% in Halifax.

**Diagram of Percent of Unemployed Who Received EI Unemployment Benefits by Gender and Province in 2004**



	Men   	Women   	Total (men and women)
British Columbia	32%	30%	<b>31%</b>
Alberta	31%	24%	<b>28%</b>
Saskatchewan	40%	32%	<b>37%</b>
Manitoba	38%	27%	<b>33%</b>
Ontario	28%	23%	<b>26%</b>
Québec	46%	41%	<b>44%</b>
New Brunswick	79%	71%	<b>76%</b>
Nova Scotia	63%	52%	<b>58%</b>
Prince-Edward-Island	83%	70%	<b>77%</b>
Newfoundland and Labrador	82%	75%	<b>79%</b>
<b>Canada</b>	<b>40%</b>	<b>32%</b>	<b>36%</b>

## THE GENDER GAP IN THE PROVINCES AND IN CITIES

While the new EI eligibility rules brought with them a wider gap in coverage between women and men, the gender gap in some provinces and cities is even wider than at the national level. In Ontario, for example, when the rules changed, EI coverage fell steeply for women of all ages — from 28% in 1996 to 23% in 2004. Coverage for men dropped from 32% to 28% in the same period. But coverage for men aged 35–44 actually increased — from 35% in 1996 to 40% in 2004.

Between 1997 — the first year of the new EI qualifying hours system — and 2001, coverage for men in most large metropolitan areas actually increased while coverage for women continued to fall. The widest gender gap was in Halifax, with a full 13-point difference between coverage for unemployed women and men. Calgary had the widest gender gap in 2004, with 26% of unemployed men compared with 20% of unemployed women actually receiving benefits. Coverage for women workers — that is, the percentage of unemployed women workers receiving benefits in 2004 — ranged from a low of 19% in Toronto to a high of 34% in Halifax.

Gender gaps in coverage rates in major cities are significant because most of the unemployed live in the large metropolitan areas. In 2004, for example, 81% of unemployed women and 79% of unemployed men lived in Census Metropolitan Areas.

## INSURABLE EMPLOYMENT AND THE TARGET POPULATION

As we have explained, the coverage numbers we use in this report reflect the percentage of all unemployed workers who actually receive regular EI benefits. Effectively, it is a ratio of beneficiaries to the unemployed or a B/U ratio and it reflects all unemployed workers, including those who are self-employed and excluded from the program, as well as unemployed workers who are deemed ineligible for various reasons — for example, because they have not been employed in the 12-month period immediately prior to making a claim.

Government estimates of how well the program covers unemployed workers are produced in a very different way. The Employment Insurance Commission produces annual monitoring and assessment reports reviewing the operation of the EI program and many of these official reports claim the new program is reaching those for whom it is designed. But the reports base their analysis only on those who had insured employment. In other words, they exclude those who have already been excluded from coverage for a variety of reasons.

Coverage numbers in these official reports are generally based on what percentage of the “target population” receives benefits. The target population for regular EI benefits is defined as “individuals who have lost or quit a job with just cause, under current EI rules, in the previous 12 months. This includes all those who have done some work in the past 12 months, and were not self-employed, and did not leave

their job to go to school or did not quit their job for a reason considered invalid according to current EI rules.”

In other words, by excluding all those workers who do not qualify for benefits, the government is able to claim the program is reaching the “target population.” In one report on maternity and parental benefits, for example, the government claimed that “approximately 80% of those who had insurable employment in the year prior to childbirth received benefits.” The author of the report took the calculation one step further by excluding those who did not claim benefits, for one reason or another, and then claimed that 98% of mothers received benefits. Needless to say, measuring the coverage of the program by excluding all those who did not qualify will produce inflated figures. In fact, the Auditor General in a 2003 report, criticized Human Resources and Social Development Canada (HRSDC) for its reporting on the results of EI changes. “Reporting of evaluation results is often selective,” she said. As for the Monitoring and Assessment Reports from the Employment Insurance Commission, she said, “While the information reported is factually correct, in many cases the Commission did not report all the key findings and emphasized positive findings.”

#### CALCULATING THE WEEKLY BENEFIT PAYMENT

Even when a claimant qualifies for EI benefits, the way in which the amount of the weekly benefit is calculated may disadvantage some claimants. Benefits are based on 55% of the claimant’s weekly average earnings prior to the start of the claim up to a maximum benefit of \$429 a week.

Before the 1996 changes, the method for calculating average earnings was very simple. It was the average of the weekly earnings in the last 20 weeks the claimant worked before layoff or filing a claim. In this calculation, the divisor — that is, the amount by which total earnings must be divided to arrive at an average weekly amount on which the benefit will be based — was the actual number of weeks worked. If claimants lived in a UI region where they needed 10 weeks to qualify and if they had worked only 10 weeks, the divisor was 10.

However, the method for calculating average weekly earnings changed radically with the implementation of the *Employment Insurance Act* in 1996. Under the new system, the divisor for calculating average weekly earnings varies according to the unemployment rate in the EI region. Weeks not worked are included in the average. For instance, a worker on call could have half of the weeks in the period with the prescribed divisor with no earnings. A worker who earns \$400 a week could end up with average earnings of \$200 when the prescribed divisor is applied. Instead of getting 55% of \$400, the claimant gets 55% of \$200.

In the weeks leading up to a layoff, workers generally have fewer hours and therefore lower earnings. The weeks immediately before the claim are the worst possible time to take an average of a claimant’s earnings. This is particularly true with the

### The impact of SARS on EI benefits

We heard from a nurse in Toronto who had been on call during the SARS epidemic. As the epidemic took hold, she was eventually laid off. While she had enough hours to qualify for EI benefits, the weeks immediately prior to her claim were weeks when she had no earnings because she was on call. But those weeks of no earnings were included in the calculation of her average earnings for her claim. Her EI benefits amounted to just \$3 a week.

kind of labour market Canada now has, where much of the workforce is in non-permanent or non-full-time jobs. In the case of workers in seasonal industries or who work on a call-in arrangement, accepting any work where their earnings would be lower than their higher wage will reduce their benefit. Since women are more likely than men to be in the type of jobs where they are on call or engaged in casual work, they are particularly disadvantaged by the divisor rules.

Many people still confuse the minimum hours needed to qualify for benefits with the formula for calculating the claimant's benefit amount. Under the EI program, the hours needed to qualify have nothing to do with the divisor used to determine a claimant's average weekly earnings on which the amount of the claimant's benefit cheque will be based. The number of hours worked is counted only in determining the qualifying time and the duration of the claim.

There are some exceptions to the divisor rule. For example, since November 2005, claimants living in 23 of the highest unemployment EI regions have their average weekly earnings based on their best 14 weeks of insurable earnings over the last 52 weeks of work.

### QUALIFYING FOR REGULAR UNEMPLOYMENT BENEFITS

Right from the beginning, applicants for both UI and EI benefits have been required to demonstrate significant attachment to the paid workforce. Implicit assumptions about women's commitment—or lack of commitment—to working outside their homes in paid employment have often made it difficult for women to prove labour force attachment.

When the weeks-based system was replaced by the hours-based system, the eligibility threshold was set much higher. But there are other restrictions that pose problems for women. Eligibility for benefits is actually determined by a complex framework consisting of five critical pieces that effectively exclude tens of thousands of women from insurance protection and explain the widening gap in benefit coverage between men and women for EI unemployment benefits. The five features of the eligibility requirements that have a particular impact on women are outlined below:

- **The “pre-qualifying period”:** This is the 52-week window immediately preceding the qualifying period. Workers are deemed not to have significant labour force attachment if they are without any hours of insurable employment; without any hours for which benefits have been paid or payable; or without any hours that relate to a situation arising out of insurable employment or a situation that prevents the payment of benefits. Individuals are defined as new entrants or re-entrants if they do not have weeks of insured employment and EI benefits during this period.
- **The “qualifying period” of 52 weeks:** The required number of insurable hours must be worked in the 52-week period immediately before the claim.
- **The variable entrance requirement:** Regional unemployment rates are used to prescribe minimum qualifying hours that must be worked in the 52-week qualifying period. The exact number of hours depends on the unemployment rate in the EI region where the worker lives. Hours can vary from 420 to 700 hours.
- **New entrant and re-entrant requirements:** Workers entering the paid work force for the **first time** or **re-entering** after an absence of two years need a minimum of 910 hours in the qualifying period.
- **Penalties for job leavers:** Workers who leave employment voluntarily (without just cause) are required to work more hours to qualify for benefits. Penalties from previous EI claims may also increase the number of hours required to qualify for EI benefits.

#### PREGNANCY, PARENTAL, SICKNESS AND COMPASSIONATE CARE BENEFITS

As well as the regular EI benefits payable when workers lose their jobs, special benefits payable under the program include sickness benefits, maternity, parental and adoption benefits, and compassionate care benefits. Available data on sickness and compassionate care benefits did not permit us to conduct an appropriate analysis of gender differences in eligibility for these benefits. But women’s eligibility for maternity and parental benefits has been affected by the changes implemented in 1997.

Under the current program, a maximum of 15 weeks of maternity benefits is payable only to the biological mother surrounding the birth of a child. In addition, both biological and adoptive parents are entitled to a maximum of 35 weeks of parental benefits. So, including the two-week waiting period, a parent may be able to claim benefits for a year after the birth of a child.

The new program specified a minimum of 700 hours of work in the 12 months prior to a claim would be required to qualify for sickness, maternity and parental benefits, but that was subsequently changed to 600 hours. As well, starting in

October 2000, parents who are returning to the workforce following an extended absence to raise young children are no longer treated as re-entrants requiring 910 hours of work in the previous 52 weeks to qualify for benefits. Instead, anyone who has been paid one or more weeks of special benefits in the 208-week period preceding the 52 weeks before their qualifying period can be eligible under the normal entrance requirement.

#### THE IMPACT OF THE 600 HOURS REQUIREMENT

The new rules imposed much more onerous requirements on women wanting to claim maternity or parental benefits than those in place under the previous program. Under the old rules, applicants for maternity or parental benefits required 20 weeks of paid employment, with either 15 hours per week or weekly earnings of at least 20% of the weekly maximum insurable earnings. Under the new Act, 600 hours — equivalent to 20 weeks at 35 hours a week — are required, with no minimum earnings restriction. In effect, women who might have qualified for maternity/parental benefits under the old rules with 300 hours of insurable earnings in the qualifying period now found the hours requirement doubled to 600.

The result of the changes has been a “shuffling” of who actually qualifies for maternity and parental benefits. A study by HRDC concluded that women who became eligible under EI were, on average, more affluent, better educated, more likely to be aged 25 to 34, more likely to be employed by a large firm and more likely to have held more than one job in the period preceding the birth. Based on this evaluation, it would appear that the switch to an hours-based system for maternity and parental benefits tended to exclude the most disadvantaged women — those who were less well educated, had lower earnings and worked for small firms — from access to maternity and parental benefits.

Other studies confirmed these findings and concluded that among new mothers, vulnerable populations are underrepresented in EI beneficiaries, while older, better paid, married women and mothers without previous children are overrepresented.

#### MOTHERS OF NEWBORNS WHO RECEIVE MATERNITY OR PARENTAL BENEFITS

Statistics Canada reported in 1999 that the fraction of mothers of newborns receiving income support through EI grew steadily during the 1970s and 1980s, but stopped growing during the 1990s. In 1998, about 49% of families with newborns qualified and received maternity benefits, essentially the same proportion as in 1989.

The percentage of mothers receiving benefits under the program has increased since then. In 2003, for example, it would appear that about 75% of mothers of new-



borns had insurable employment. About 15% of mothers of newborns did not receive maternity or parental benefits in 2003 even though they had an attachment to the paid workforce

In 2001, almost 20,000 mothers who had insurable employment were denied benefits, because they did not have enough hours to qualify. By 2003, that number had fallen to 8,200. It should also be noted that almost 15,000 — or 4.5% of mothers of newborns — were denied maternity or parental benefits in 2003 because they were self-employed. Fathers represent only 11% of those who claim parental benefits.



## The EI changes in relation to labour market developments

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TRENDS IN THE CANADIAN labour market, particularly in relation to hours of work and regional unemployment rates, have an important bearing on EI coverage and eligibility for benefits. Over the past three decades there has been a remarkable increase in the percentage of women in the paid workforce and more than three quarters of all women in the prime age groups now have paid jobs. Labour force participation rates for women in these age groups are now very close to those of men. Even more significant is the fact that the labour force participation rates for women with children have continued to increase. But UI/EI eligibility rules have been based largely on the norms of a male-dominated workforce: a breadwinner father and stay-at-home mother — even though this is no longer the norm.

It is important to note that the significant gender differences are not found in labour force participation rates. They are found in the working time and the interruptions in working time that are related to child care and family responsibilities.

### THE INCREASE IN NON-STANDARD WORK ARRANGEMENTS

While women have indeed entered the paid workforce in ever-increasing numbers, the nature of paid employment for many of today's workers is now very different from that of previous generations. For many people, the expectation is no longer that of finding full-time work with a single employer and spending a lifetime in that job

until being able to retire with a good pension. Those kinds of jobs were once considered “standard.” Most people in the paid workforce were employed in such jobs. Since the late 1970s, however, more and more jobs no longer fit that pattern. Some are short-term, temporary jobs, others are contract work, part-time and casual jobs. Many workers hold multiple jobs as a way of making ends meet. Others have become self-employed, working for their own account without employees.

Because they do not fit the pattern of standard jobs, these different work arrangements are often referred to as non-standard jobs. Non-standard work arrangements tend to be poorly paid. Working conditions are often uncertain and there may be little or no job security. Workers may be expected to work at home or to be on call when an employer needs them. Employment standards legislation may not apply, and workers in these jobs are generally not eligible for pensions and other benefits. For obvious reasons, researchers now describe these jobs as “precarious employment.” Workers in precarious jobs are also referred to as “contingent workers” whose employment is contingent on the fluctuating demands of employers in the market economy.

All told, about 34% of all employment in Canada in 2004 consisted of these non-standard work arrangements. Some people may hold a combination of non-standard jobs. A self-employed person may work part-time, for example, or be employed full-time on a temporary basis. A part-time worker may work a full year for the same employer on a long-term basis. A person with multiple jobs may have some part-time, some full-time and some temporary work. The numbers cited here eliminate double counting of non-standard workers as far as possible.

In recent years, the percentage of Canadian workers employed in non-standard work arrangements has stabilized at around 34%. However, some experts suggest the stabilization of non-standard work arrangements may mask growing insecurity for some groups of workers in certain types of non-standard jobs. They note the relatively more precarious forms of non-standard work — temporary jobs and own-account self-employment — have become more prevalent.

Women are more likely than men to be employed in non-standard jobs. In 2004, for example, the percentage of employed women in non-standard work arrangements was almost 40%, while the percentage of employed men in non-standard jobs stood at about 29%.

It is important to note that the percentage of workers employed in non-standard jobs tends to vary according to economic conditions. In a strong economic environment, non-standard employment may be somewhat lower. However, the fact that 40% of employed women do not have permanent full-time jobs must be a cause for concern. In the context of an EI system based on hours of work and earnings in the immediate period before becoming unemployed, there are clearly serious implications for the eligibility of women workers for benefits and for the amount and duration of the benefits they may receive.

## THE IMPACT OF NON-STANDARD WORK ARRANGEMENTS ON EI ELIGIBILITY

The fact that a significant percentage of employed women are in various types of non-standard work arrangements also accounts for differences in hours of work between women and men. Non-standard jobs may have irregular hours of work and some types of non-standard jobs, such as multiple jobholding, may reduce the worker's eligibility for EI benefits.

### **Part-time work**

By far the largest group of women employed in non-standard work arrangements is found in part-time work—defined as working less than 30 hours a week. Women are much more likely than men to be employed part-time. More than two million employed women (compared with 921,000 men) were working part-time in 2004.

As might be expected, the reasons women work part-time vary considerably by age. Most younger women are employed part-time because they are going to school. Caring for children is a key reason for working part-time among women in their childbearing years. But almost as many women in this age group who are part-time workers work part-time because they have been unable to find full-time jobs. The majority of women aged 45 or older who are employed part-time indicate it is their personal preference to work part-time.

### **Multiple jobholding reduces EI eligibility**

The percentage of women holding more than one job has doubled in less than two decades from 1987 to 2004. Multiple jobholding for men increased by 24% during the same period.

Multiple jobholding has been growing rapidly in occupations traditionally dominated by women, such as sales and services and health, while dropping in those fields dominated by men, such as management, primary industries and transport. While 6% of employed women were multiple jobholders in 2004, that was an increase from 4% in 1987. As well, women were slightly more likely than men to be multiple jobholders in 2004.

From the point of view of EI benefits, multiple jobholding is significant. If a worker loses her/his main job but continues to earn from other jobs, EI benefits relating to the main job will be denied if earnings from other jobs are more than allowed under the program rules that determine if claimants may work while on claim. A claimant can't work full-time and receive EI benefits. However, a claimant can work part-time while receiving regular unemployment benefits and may earn up to \$50 per week or 25% of weekly benefits, whichever is higher. Any monies earned above that amount will be deducted dollar for dollar from the person's EI benefits.

However, under a pilot project that started in December 2005 and ending in December 2008, if the claimant lives in one of the 23 EI economic regions, the amount

they earn while working part-time and receiving EI benefits is the greater of \$75 or 40% of weekly benefits.

### **Temporary jobs**

Women are slightly more likely than men to have temporary employment — defined as working at a job with a predetermined end date. In 2004, about 14% of employed women, compared with 12% of employed men, were in temporary jobs.

Many temporary jobs have irregular hours of work, making it difficult for workers to qualify for benefits. As well, for those who do have the hours to qualify, the benefit payment may be small because they may have periods when they were on call and had no earnings immediately prior to making a claim for benefits.

Seasonal, term, contract work and casual employment all fall within the temporary work category. But there are marked differences in these types of employment. Irregular schedules such as are found in on-call casual work, as well as jobs that are a mix of self-employment and temporary work, or where hours worked have no earnings under the rules for averaging weekly earnings, can all reduce the actual benefit payment to well below the nominal weekly wage.

### **Self-employment: The increase in non-insured workers**

Self-employment is not covered by the EI program, yet one in 10 employed women in Canada is now self-employed. In other words, 10% of employed women are automatically excluded from the program. The number of employed men in self-employment in 2004 was about double the number of women in this type of work. However, self-employment for women has been growing at twice the rate it has for men over the past three decades. Self-employed women are less likely than their male counterparts to run an incorporated business. Most self-employed women, as well as men, have no paid help.

## **GENDER DIFFERENCES IN ACTUAL TIME SPENT IN PAID EMPLOYMENT**

The increase in required hours of paid employment is the most obvious explanation for the large and widening gap in UI/EI coverage for unemployment benefits between men and women. Women work lower average weekly hours than men, even when both are employed full-time. But women are also much more likely than men to be employed in part-time jobs. Coverage differences between women and men can also be attributed to different employment patterns for women and men, along with the growth of temporary and casual employment arrangements referred to above. Added to this mix is the growth of multiple employer work arrangements and self-employment, which is still excluded from the EI program. Another major reason for the coverage gap is undoubtedly the impact of women's child care and family responsibilities on their ability to participate in paid employment.

Lower EI coverage for women and the widening gap in benefit coverage between women and men raises the issue of whether the minimum working time measures used to establish a worker's labour force attachment are appropriate, given the working time arrangements of women and their disproportionate responsibility for child care and family responsibilities.

#### AVERAGE WEEKLY HOURS AND OVERTIME

As we noted earlier, claimants under the old UI program were required to have worked a number of weeks at a minimum of 15 hours a week. The hourly requirement under the new program was calculated at the same number of weeks but assuming 35 hours of work per week. A minimum requirement of 20 weeks at 15 hours — the equivalent of 300 hours — became a minimum requirement of 700 hours.

Less than a third of men in paid employment worked less than 35 hours a week in 2004. Most employed men work much more than 35 hours. Significantly more men than women work weeks longer than 35 hours, with many working as long as 40 and 50 hours. Nearly three-quarters of men work more than 35 hours. But only 49% of employed women work 35 hours or longer. As well, when women work overtime hours, they average fewer hours of overtime than men. For example, in 2004, men who worked overtime averaged over 13 hours a week. Women averaged 10 hours

Under EI program rules, there is no limit on the number of weekly hours worked that can be taken into account in determining eligibility for benefits. As a result, employees who are able to work overtime on a regular basis will require fewer weeks of work to qualify for EI benefits. Overtime pay also boosts the individual's average weekly earnings and will therefore mean higher weekly EI benefits if the person becomes an EI claimant.

But women are far less likely to be able to work overtime, largely because of their family responsibilities. For example, in 2004, only 18% of employed women, compared with 25% of employed men, worked overtime hours. Differences in overtime hours worked also account for lower EI unemployment benefit coverage for women and the widening gap in coverage between women and men.

It is also important to note that many of those who work overtime do not get paid for their overtime hours. Working unpaid overtime, of course, affects the amount of the EI benefit if the worker becomes unemployed. While the worker may have enough hours to qualify for benefits, the amount of the benefit will reflect the fact that some of those hours were unpaid. Women who work overtime are less likely than men to get paid for their overtime hours. Only one-third of the women working overtime get paid for their overtime hours, while more than half of all men who work overtime get paid for it.

## LENGTH OF UNEMPLOYMENT SPELLS

A major part of the reduction in EI coverage for both women and men is accounted for by unemployed workers who have exhausted their benefits weeks or months before finding another job. Many unemployed workers experience long spells of unemployment, but women have slightly shorter spells of unemployment than men. For the entire workforce, the difference between women and men has never been much more than one or two days.

## FAMILY RESPONSIBILITIES AND ELIGIBILITY FOR BENEFITS

A key reason for the gender gap in coverage between women and men is the fact that women's unpaid work and family responsibilities have a significant impact on the number of hours they are able to commit to paid employment. Many employed women work part-time, because they are also caring for children in the home. Even when women are employed full-time, they tend to work shorter hours than men, because of family responsibilities. As well, women are more likely than men to lose hours of work, because they have to attend to family matters, such as a child's illness.

Women are more likely than men to take time away from work because of illness or disability, but it is often suggested that women who might find it difficult to ask for time away from work because of a child's illness may "call in sick" so they can stay home to look after a child without encountering a negative reaction or incurring stigma from their employer. However, there is no way of knowing the extent of this phenomenon.

Women are also much more likely than men to take time away from work for personal or family reasons. When workers lose hours of work — whether it is a full week or part of a week — it has major consequences for EI eligibility and in the calculation of an EI claimant's average weekly earnings for determining the weekly amount of the benefit.



## Features of the EI program that cause concern

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A NUMBER OF FEATURES of the EI program give cause for concern and need to be addressed.

### THE IMPACT OF THE LABOUR FORCE ATTACHMENT DEFINITION ON WOMEN

The definition of “labour force attachment” has a disproportionate impact on women, affecting their eligibility for EI benefits. In fact, a major dividing line among the unemployed in terms of EI eligibility is between those who have worked or not worked in the period immediately before a claim. The unemployed who have not worked in the last year are not eligible for benefits.

For the purposes of EI eligibility, it is also important to distinguish between those who have never worked and those who have not worked in the last year. The reason they have been out of the labour force must also be taken into account. In 2004, for example, 35% of women had not worked in the past year and would not have met the labour force attachment test. But although they have strong attachment to the paid workforce, perhaps having been employed for many years over their adult lives, they did not have paid employment in the 52 weeks before their claim.

Alternatively, never having worked before, they may have entered the paid workforce to find employment, but having been unable to find a job, they may then not have been eligible to file a claim for Employment Insurance. Although the gap be-

## Barriers to women in the EI program

Here's what participants in our focus groups told us:

*The government must address and do something about taking down the barriers for women with the program. The system was set up when men were the head of the household and were the only ones working.*

*The government needs to address part-time, casual or shift workers around the whole qualification aspect. They must particularly address the women who work in these types of jobs.*

tween men and women who had not worked in the last year or who never worked has been narrowing, the explanation for the gap lies in the rising portion of men who have not worked in the past year.

### CATEGORIES OF THOSE WHO ARE UNEMPLOYED

There are four broad categories of reasons why workers are unemployed. Unemployed workers may have left their previous jobs voluntarily — they are “voluntary quits”; they may have lost their jobs because they were laid off or terminated; they may fall into the category of those who have not worked in the past year; or they may be workers who have never worked — that is, they are new entrants to the paid work force.

Whether or not an unemployed person will be eligible for benefits may depend on which category he or she is in. Those who have never worked, or those who have not worked in the past year, will not be eligible for benefits. Those who are job leavers or job losers are much more likely to qualify. The gender gaps in the percentage of the unemployed women and men in each of these categories vary from relatively narrow to quite large, but women predominate in the three categories of the unemployed at risk of zero eligibility or a high probability of not qualifying: job leavers, those who have not worked in last year, and those who have never worked.

#### **Job losers**

In 2004, 50% of men, compared with 40% of women, who were counted as unemployed had lost their jobs. Those in the job loser category have a high probability of qualifying for EI benefits.

#### **Job leavers or voluntary quits**

A large percentage of those who quit their jobs do not qualify for benefits. But according to a 1999 Statistics Canada report on EI coverage, 84% of those who voluntarily left their jobs had paid EI premiums at their last jobs.

Those who leave their jobs for just cause are entitled to receive EI benefits. Just cause is specified in the EI Act and includes health and safety reasons, a spousal

move for employment in another location, sexual harassment and so on. Leaving a job for reasons not specified in the Act or jurisprudence can affect both current and future eligibility for EI benefits. Someone who leaves a job for family responsibilities will not be covered unless they are eligible for maternity or parental benefits. Those who leave to return to school must be referred to and eligible for an EI training program. Going to school is the single most important reason for both men and women to leave their jobs.

Unemployed women are more likely than unemployed men to be job leavers, but there are significant differences between women and men in their reasons for leaving a job. The single biggest reason more women leave jobs than men is for child care and family responsibilities.

#### **Not in the labour force but wanted work**

Many of those not in the paid workforce would like paid employment, but for various reasons have been unable to work. In some cases, it was because of illness; in others, workers were attending school, or waiting to be called back to work. Family responsibilities account for most of the gender gap between women and men in this category.

#### THE VARIABLE ENTRANCE REQUIREMENT

If an unemployed worker meets the labour force attachment test of having insurable employment in the 12 months preceding the worker's qualifying period, they are deemed not to be a new entrant or re-entrant. They are then subject to the variable entrance requirement (VER) that determines the number of hours they need to qualify for regular unemployment benefits. The VER varies according to the regional unemployment rate. The lowest qualifying hours are in EI regions where the unemployment rate is above 13%. The highest qualifying hours are in regions with unemployment rates below 6%. The qualifying hours vary from 420 to 700 hours according to the monthly unemployment rate in 58 regions.

The use of the VER to prescribe qualifying time is arbitrary and unfair. As well, it is not transparent. Most workers do not know the required hours.

#### THE USE OF THE UNEMPLOYMENT RATE IN DETERMINING COVERAGE AND BENEFITS

As an explanation of the EI gender gap in both coverage and benefit levels, the issue that has received the least attention is the definition of unemployment and how this definition and the measures of unemployment are used to determine eligibility, length of the benefit period and the weekly benefit a claimant receives.

### The two-week waiting period

*It puts undue hardship on people who need to pay their bills and eat.*

—Focus group participant

The unemployment rate has now become the spine of the EI system. The unemployment rate in each of the 58 EI regions is used to prescribe: the minimum hours of work required to qualify for benefits; the maximum length of the benefit period; and the divisor used to average a claimant's weekly earnings and calculate the weekly benefit. Workers claiming maternity or parental benefits, for example, are entitled to lower amounts if they live in regions where unemployment is lower and greater amounts where it is higher. This is in spite of the fact that they still need 600 hours to qualify for those benefits wherever they live and regardless of how high the unemployment rate is in their particular region.

But the official unemployment rate used in determining coverage and benefits is not gender neutral. Based on the national official unemployment rate, it would appear that unemployment is lower for women than men. However, the gap between women and men reverses when unofficial unemployment rates are compared. When discouraged workers, involuntary part-time workers and those waiting to be recalled are taken into account, the unemployment rate for women was 10.7% in 2004; nearly four points above the official measure of 6.8% for women and one percentage point above the unofficial rate of 9.7% for men.

### NEW ENTRANTS AND RE-ENTRANTS

New entrants and re-entrants, that is those who have never been in the labour force or those who have been out of work more than a year, need 910 hours of work in the 52-week period before a claim to qualify for EI unemployment benefits. This rule particularly hurts women who are more likely than men to be re-entrants, because of their family responsibilities. It is yet another reason for the gap in EI benefit coverage between women and men.

One study for HRSDC concluded that the increase in the minimum number of weeks/hours necessary for these workers to qualify for benefits significantly reduced their access to benefits, especially for young new entrants/re-entrants and mothers returning to paid employment.

## THE FAMILY SUPPLEMENT

For unemployed parents with net family incomes of \$25,921 or less, there is a “family supplement” under which the benefit rate is increased from 55% to a maximum of 80%. The average weekly top-up for low-income families in 2003–04 was \$42.

Women are the primary recipients of the Family Supplement. In 2003–04 they represented two-thirds of claimants of regular EI benefits and 88% of all claimants of special benefits who received a family supplement. Almost 15% of women EI claimants, compared with 4% of all men claimants, are entitled to the family supplement.

It could be argued that the family supplement feature of the EI program turns it into more of an income support program rather than an earnings replacement program. The family supplement is not based on the claimant’s current earnings and only claimants who received the Child Benefit in the previous year are eligible. As well, only unemployed persons who meet the strict requirements to qualify for EI regular unemployment benefits are eligible for the family supplement. Ironically, while 82% of unemployed women who leave their jobs have left for family reasons, they are denied benefits under current rules.

However, the family supplement raises more fundamental and philosophical issues. It is inappropriate to introduce a benefit based on family income into a program intended to replace an individual’s temporary loss of earnings from paid employment. It is the individual, not the family, who participates in the paid labour force. Like other programs based on a test of family income, it assumes all family members have equal access to the income of the family. A growing body of literature challenges such assumptions. While most benefits under this part of the program are paid to women, their entitlement to the benefit depends on their family income. As such, it undermines women’s economic autonomy and social equality.

Many low-income unemployed women do not receive the family supplement because they can’t meet the eligibility requirements for regular EI benefits or they have exhausted their benefits before finding another job. We estimate the amounts lost through failure to qualify for regular unemployment benefits exceed \$2 billion in benefits or roughly six times the total annual payout in EI family supplement benefits. More than 60% of this dollar loss is borne by the lowest-income workers who would have been entitled to the family supplement had they been able to qualify for EI under the eligibility rules.

## UNEMPLOYED WOMEN HEADING FAMILIES

The number of claimants with children receiving EI benefits has also dropped since the rules changed. While the decline for women EI claimants with children was slightly more than that of men, low-income women suffered a much larger loss than

male EI claimants with children. Eighty two percent of the drop in women beneficiaries was accounted for by women in the two lowest income quintiles (under \$12,000), compared with a 41% drop in men with children who claimed EI.

It would appear that changes in the EI rules — including severe restrictions on voluntary leaving in 1993, changes to the EI region boundaries and thresholds that increased the VER and shortened the maximum weeks of benefit entitlement in 1994, and cuts to the amount of weekly benefit through changes in the benefit rate and divisor in 1996 — resulted in a redistribution of EI claimants with children from the bottom to the middle and higher income groups over the last 17 years. Distributional shifts also reflect labour market and labour force changes. However, some features of the EI program have been helpful to women with children, mainly through maternity and parental benefits. The introduction of parental leave benefits in 1990 and their expansion by 35 weeks in 1996 resulted in more women claimants moving out of lower income groups.

#### COPING WITH UNEMPLOYMENT

How do unemployed workers cope with unemployment if they are denied EI benefits? Surveys conducted by Statistics Canada indicate one-third of all ineligible unemployed people lived with parents and relied on them to meet day-to-day financial needs. Another 23% lived in households where the main source of income was social assistance. Almost 19% of those ineligible for EI relied on the wages of a spouse or common-law partner as their main source of income while they were unemployed.

When asked whether household income met regular household expenses during the month of the reference week, respondents indicated that household income was sufficient in three quarters of the cases when the main source was the wages or earnings of a family member. Income was sufficient in only half the cases when the main source of income was social assistance or savings and investments.

#### LOSS OF ACCESS TO EI BENEFITS BORNE BY THOSE WITH LOWEST INCOMES

There is no doubt that there has been a massive loss of coverage in the UI/EI program and there is evidence that the loss in access to benefits has been borne by those with the lowest incomes, in the case of both women and men. Measured by income quintiles — that is, dividing total EI beneficiaries into five income groups from the lowest to the highest — the largest reduction in beneficiaries was found in the two lowest income quintiles for both women and men.

### Dealing with the EI office

*They need to speak to claimants in a more understandable language to ensure the average person can understand the process.*

*Who does one turn to if you've been denied benefits like sick leave? Who are the advocates for us? The experience was a nightmare*

—Focus group participants

The percentage of women in the bottom quintile declined from 25% in 1986 to 13% in 2003. The percentage of men in this quintile fell from 10% in 1986 to 6% in 2003. The percentage of women claimants in the middle-income quintile rose from 28% to 34% during the same period. The percentage of men in this quintile rose from 29% in 1986 to 32% in 2003. In the top quintile, the percentage of women rose from 2% to 4%, while the percentage of men rose from 13% to 16%. However, it should be noted that those in the top income quintile usually have permanent full-time jobs and are more likely to qualify for benefits when they are unemployed. Our calculations of the B/U ratios (showing the ratio of beneficiaries to the unemployed) indicate that women lost disproportionately more than men as far as regular EI benefits are concerned.

EI rules that exclude most women in precarious work left women in permanent higher-income jobs qualifying for the lion's share of both regular and special benefits. But gains for women in the upper-income quintiles are small and do not offset the massive losses suffered by women in the lower-income groups.

It should be noted that the EI program has specific provisions for contributors with very low incomes who are unlikely to qualify for benefits, whereby individuals whose earnings were less than \$2,000 are entitled to a refund of their EI premiums when they file an income tax return. According to the Canada Revenue Agency, in 2002 the government refunded over \$15 million in EI premiums to 656,870 individuals. Although no gender breakdown was available, the significant amount of the refund underscores the benefit loss, because of the very high qualifying requirement.





## Options for change: Recommendations

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THE 1996 EI ACT did more than make eligibility much tougher by increasing the work time needed to qualify for benefits and shortening the length of the benefit period. The Act introduced many other changes, all of which have had a profound impact on women and are generally negative in comparison with the impact on men — much of that is because the new rules do not take into account profound labour market and societal changes over the last two decades.

Our analysis of the gender gaps in working time, family responsibilities and earnings suggest that the most important EI rule change that could be made to eliminate the gender gap in coverage between women and men would be to redefine how labour force attachment is measured.

The current method of measuring a worker's labour force attachment by the hours worked in a narrow one-year qualifying period is based on a number of assumptions and norms about both the labour market and labour force that have not existed for decades. Aside from the significant expansion of parental benefits, the reforms of regular unemployment benefits were oblivious to the daily struggle of workers to balance the demands of paid employment with family life and the needs of children.

For the majority of workers in the prime working age groups, both parents in most two-parent families, as well as the majority of lone parents heading families, are in the paid labour force. Parenting, like education, is a multi-year activity that has a major impact on working time. Parenting responsibilities, particularly for young children, go well beyond the one year for infant care now allowed by EI rules that

measure labour force attachment. Family responsibilities affect the hours a parent, particularly a mother, can work for pay, and may determine work interruptions and time off, all of which affect the individual's eligibility for EI benefits if she becomes unemployed. The EI qualifying period and the voluntary leave rules are inadequate and do not fit the realities of either family or work life in this 21st century.

The revolution in working time and the organization of work affects all workers. A very large number of women, particularly women under 45 having children and carrying the double responsibility of family responsibilities and the demands of paid work, are at a much higher risk of not qualifying for regular unemployment benefits. Many women with years of participation in the workforce are also at risk of not qualifying for special benefits, such as maternity/parental benefits and compassionate care benefits, under the current requirement for 600 hours of work in a 12-month qualifying period.

The inadequacy of current procedures for measuring EI qualifying time by hours is obvious from the plethora of statistics on average hours worked. Recent studies show considerable instability in working hours for millions of individuals who may work above-average hours in one year followed by as many as four years of below-average hours. What's more, working variable hours is not done by choice; it is more likely that workers are unable to secure more stable employment. It is significant, of course, that women are more likely than men to be employed in non-standard work arrangements and low-quality jobs.

Studies also find that the share of workers working standard length work weeks — usually defined as from 35 to 40 hours per week — declined over the past two business cycles. Findings such as these call into question the appropriateness of using hours worked in the most recent 52-week period as the basis for determining eligibility for EI benefits. It should also be noted that while the business cycle may affect the number of hours worked, it also determines the unemployment rate. In other words, when unemployment is high because of poor economic conditions, workers are less likely to have the hours needed to qualify for benefits.

Current rules, which severely punish workers for voluntarily leaving a job, even when it is for family and children or to attend school, make no sense — particularly in this century, when both of these activities are so critically important to our social progress and economic prosperity.

## RECOMMENDATIONS

In February 2005, the House of Commons Standing Committee on Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities released a report from its Subcommittee on Employment Insurance Funds under the title *Restoring Financial Governance and Accessibility in the Employment Insurance Program*. The Committee made 28 recommendations for changes to the

EI program. While these recommendations were not specifically intended to address gender inequities in the program, in our view they would generally be helpful in removing the adverse impact of program design on the women workers we have documented in this report.

We have built on some of the Committee's recommendations in formulating our own recommendations designed to correct the gender imbalance in the program and return it to its primary role as an income replacement program for women and men who become unemployed or face a temporary interruption of earnings for other reasons, such as sickness, pregnancy, parental leave and compassionate care. Training programs available under the EI Act must also recognize the need for ongoing training and lifelong learning and be made available to both women and men without bias.

#### WHAT WE HAVE CONCLUDED

Based on our analysis, we have concluded that major changes to the program are necessary, as outlined below:

- Generally, to address the four main reasons why more than 60% of the unemployed do not receive EI regular unemployment benefits and a large number of women who have babies and who are in or have been in the labour force for several years at various times do not qualify for maternity and parental leave benefits.
- Recognize in the design of both EI eligibility requirements and the calculation of weekly benefit entitlement the very real gender/age differences in working time and the unique demands on women to undertake responsibility for children and family.
- Make eligibility rules and benefit levels fair and just to the millions of workers, particularly women, in non-standard forms of employment (part-time, temporary, casual, contract work, seasonal, multiple jobholding and self-employment).
- Treat adult education, skills training, parenting and family responsibilities as an essential and integral part of working life in the eligibility and benefit rules for all EI programs.
- Have uniform measures of working time for all EI entitlement programs: unemployment, pregnancy, and parental leave, temporary sickness, compassionate care leave and skills training.
- Insure the earnings of all self-employed individuals (including those who operate independent businesses) for entitlement to special benefits as well

as self-employed individuals who are dependent contractors to have their earnings insured for regular unemployment benefits.

- Expand the acceptable reasons for voluntarily leaving a job and remove the penalties on any subsequent claim for regular unemployment benefits.
- Expand the qualifying period for measuring minimum working time and earnings up to five years to reflect the increasing instability in annual working time for millions of workers and the multi-year demands on workers for parenting, family responsibilities and adult education.
- Design minimum and maximum working time eligibility rules that support established employment and labour standards on working time (e.g., discouraging excessive overtime, unfair casual work arrangements, etc.).
- Design program rules that do not violate or diminish constitutional charter rights.
- Limit the use of EI regional unemployment rates as a measure for extending the length of the benefit period when regional unemployment is high; and end the use of regional unemployment rates to determine minimum working time requirements and in prescribing the divisor used to average a claimant's weekly average earnings in the calculation of their weekly benefit entitlement.
- Make all eligibility requirements and the amount of benefit entitlement absolutely clear, transparent and well known to every worker.

#### OUR RECOMMENDATIONS ARE SUMMARIZED BELOW

- We propose a two-track qualifying system where the minimum time worked to qualify for benefits would be either 360 hours in a 12-month qualifying period before an interruption of earnings or three years of insurable employment that averages 360 hours a year in the previous five years. The qualifying requirement would be the same for all categories of benefits (i.e., regular, work sharing, maternity and parental, sickness, compassionate care and training).
- We propose elimination of the two-week waiting period be extended to all EI earnings replacement programs.
- We also propose the maximum weeks of benefit entitlement for regular unemployment benefits be separated into two tiers. The first tier would be related to the claimant's weeks of work in the most recent 12-month period of work. A claimant would be entitled to one week of benefits for every 30 hours worked in the most recent 12 months. The second tier would be an extended benefit to be available to claimants in areas where regional unemployment rates are higher. The extended benefit could be one week of extended benefits

for each half percentage point that the regional unemployment rate is above 6%.

- We propose an increase in the maximum weeks for sickness and compassionate care benefits — initially to 26 weeks, with the potential to increase the benefit period further if experience warrants.
- We recommend that the weekly benefit amount be 66% of a claimant’s average weekly earnings in their best 14 weeks of earnings during the most recent 12-month period.
- We propose this method of calculating benefits for high unemployment regions, used in the pilot Best 14 Weeks project, be made a permanent feature of the EI program for all regions, not just those where there is high unemployment. The benefit rate would be established using the highest 14 weeks of insurable earnings in the last 52 weeks.
- We recommend the family supplement be eliminated from the EI program.
- The definition and categories of just cause for voluntarily leaving a job should be expanded to provide for more flexibility in interpreting what constitutes just cause. As well, the onus of proof should be shifted from the claimant to the Commission.
- All self-employed individuals should be entitled to EI special benefits. Self-employed independent businesses would pay both the employer and worker share of the EI premiums. In the case of non-incorporated self-employed who are dependent contractors (people who work mainly or entirely for one employer and are therefore dependent on that employer for their earnings) we propose they be entitled to regular unemployment benefits.
- We propose the government investigate the possibility of including all self-employed workers in the program of regular EI benefits.
- Self-employed individuals should be entitled to maternity and parental benefits as proposed in Quebec’s parental insurance program and recommended by a parliamentary committee.
- We recommend expanding funding for training beyond apprenticeship, so regular EI benefits are available for all forms of workplace training. This should be accompanied by a requirement for the development of a workplace human resource and training plan, Canada-wide training and occupational standards, recognition of prior learning and worker experience, a primary role for public education to ensure access, high standards and accountability, and union participation in approving the training plan and establishing standards with employers, education and government.
- We also propose an EI premium reduction for employers who provide paid education leave or workplace training equivalent to what is provided by EI

training insurance (similar to the premium reduction for employers and their employees with private insurance plans that top-up maternity, parental and sickness coverage).

- We recommend greater transparency in reporting, particularly on the part of the provinces, on the outcome of labour market development agreements.
- We also recommend further research directed at the effects of devolution of Part II training to the provinces.
- Analysis of the EI program in the annual EI monitoring and assessment reports should include information on eligibility and ineligibility by gender and by EI region.



**> ABOUT THE CENTRE**

The Canadian Centre for Policy Alternatives is an independent, non-profit research institute funded primarily through organizational and individual membership. It was founded in 1980 to promote research on economic and social issues from a progressive point of view. The Centre produces reports, books and other publications, including a monthly magazine. It also sponsors lectures and conferences.

**> AU SUJET DU CENTRE**

Le Centre canadien de politiques alternatives est un institut de recherche indépendant et sans but lucratif, financé en majeure partie par ses membres individuels et institutionnels. Fondé en 1980, son objectif est de promouvoir les recherches progressistes dans le domaine de la politique économique et sociale. Le Centre publie des rapports et des livres, ainsi qu'une revue mensuelle. Il organise aussi des conférences et des colloques.



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